

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JANA M. ALIG-MIELCAREK, Ph.D.,

Plaintiff,

v.

Civil Action 2:11-cv-00255

Judge Edmund A. Sargus

Magistrate Judge E.A. Preston Deavers

DERRELL L. JACKSON, Ed.D., *et al.*,

Defendants.

ORDER

This matter is before the Court for consideration of Plaintiff's Motion for Default Judgment (ECF No. 30). For the reasons that follow, the Court **DENIES** Plaintiff's Motion **WITHOUT PREJUDICE**.

The docket fails to indicate that prior to seeking a default judgment, Plaintiff first obtained an entry of default as contemplated by Federal Rule of Civil Procedure 55(a). An entry of default is distinct from entry of a default judgment. *See O.J. Distrib., Inc. v. Hornell Brewing Co., Inc.*, 340 F.3d 345, 353 (6th Cir. 2003); S.D. Ohio Civ. R. 55.1(b). By asking only for a default judgment, Plaintiff has failed to follow the sequential procedure set forth in Rule 55. *See Brantley v. Runyon*, No. C-1-96-842, 1997 WL 373739, at *1 (S.D. Ohio June 19, 1997) ("In order to obtain a default judgment under Rule 55(b)(2), there must first be an entry of default as provided by Rule 55(a)." (citation omitted)). For this additional reason, the Court cannot enter a default judgment under Rule 55(b) at this juncture. *Cf. O.J. Distrib., Inc.*, 340 F.3d . at 352 ("Rule 55 permits the clerk to enter a default when a party fails to defend an action as required. The court may *then* enter default judgment." (emphasis added)) (quoting *Weiss v. St. Paul Fire*

& Marine Ins. Co., 283 F.3d 790, 794 (6th Cir. 2002)).

Accordingly, the Court **DENIES** Plaintiff's Motion for Default Judgment (ECF No. 30)

WITHOUT PREJUDICE.

IT IS SO ORDERED.

Date: June 22, 2011

/s/ Elizabeth A. Preston Deavers

Elizabeth A. Preston Deavers
United States Magistrate Judge